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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,987	10/13/2004	Christopher Michael Penfold	2955-207	2253
6449 7590 01/25/2007 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/25/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/510,987

Applicant(s)

PENFOLD ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-11 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claim 1, line 8, applicants refer to the base wall being "elastic such that it can be reversibly flexed", which is not found in the specification as originally filed. It is not clear that applicants have support for this recitation, or if so, that it is described as such in the original specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 3, ""such location" is indefinite as to the meaning of "such" being "like" or "previously stated". It appears applicants mean "previously stated" and should substitute --said location--

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6-8 and 12 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Kozlowski et al. (6,951,353)(Figures 2 and 32-35). Claims 1-9 and 12-13 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Flewitt (6,345,717)(Figures 5 or 7C). Claims 1-6, 8-9 and 12-13 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Grabowski (5,954,204). Claims 1-6, 8 and 12 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Reid (4,574,954). Each discloses a pack (Figures 2 and 32; as shown or at 11; 10; 10; respectively) of medicinal tablets, the pack comprising a base wall (20; 8 or 1; 11; 13) which defines a plurality of locations for the tablets, wherein at each location there is a displaceable pocket (see Figures 32-35; 2 or 2; 16; 11) which is integral with the base wall and constitutes a recess for a tablet, a cover piece (26; 26 or 5; 12; 46) of a rupturable material and a tablet (as shown; 4 or 4; 15; 14) between the displaceable pocket and the cover piece, wherein the base wall is of sufficient rigid construction as to be resistant to permanent deformation and is elastic so as to be reversibly flexed

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(recoverable from Figure 35; at 8A or recovering from Figure 7C; after the act of Figures 3-6 and the finger is removed; pushing on the pocket from Figure 4 to return to Figure 3).

As to claim 2, each discloses the pockets integral with the base wall.

As to claim 3, each discloses tablets in and of themselves (naked).

As to claim 4, each discloses the tablets provided in a blister pack (10; 2 and 5 together; 10; 17).

As to claim 5, Flewitt, Grabowski and Reid each disclose blisters (2; 16; 11) protruding through openings (9; at 20; 12).

As to claim 6, each discloses at least four pockets.

As to claim 7, Kozlowski et al. and Flewitt disclose the base wall formed from a polymer (plastic disclosed in general; see column 4, lines 3-13)

As to claim 8, each discloses the pockets as substantially dome-shaped.

As to claim 9 and 13, Flewitt and Grabowski each discloses (Figures 3-5; Figure 5) the pockets integral with the base wall and the junction between a pocket and the base wall is a hinge.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 10-11 and 16 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Flewitt or Grabowski, as employed against claim 9 above, in view of Reid. Reid further discloses that the pocket can be pushed inwardly causing a stable inverted configuration (see column 1, lines 33-54) bending about a hinge line pre-stressed to invert (see column 2, line 43 through column 3, line 32). To modify the pocket and base wall structure of either one of Flewitt or Grabowski employing the pre-stressing and stable inverted conversion as taught by Reid would have been obvious in order to facilitate inverting the pocket and removing the tablet, as suggested by Reid.

As to claim 16, Reid further suggests injection molding as a method to form the pack.

9. Claims 14 and 15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art employed against claim 1 above and further in view of Roulin et al. (5,624,036). Roulin et al. disclose joining two packs together in a pack assembly. To modify the individual pack of any one of the references employed against claim 1 employing the pack in an assembly as disclosed by Roulin et al. would have been obvious in order to provide multiple packs in a single arrangement, as suggested by Roulin et al..

10. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the maintained and new grounds of rejection. It would appear that all of the employed base references either disclose the pockets being inherently reversibly

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flexible, and Grabowski expressly reversible from Figure 6. While applicants argue that it is common or inherent that the prior art, to Flewitt and Reid, and would assumably against Kozlowski, can not be reversibly flexed, the examiner considers that one of ordinary skill in the art would recognize that the structure, which is not destroyed in the course of its use, may be repositioned and used again if so desired.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

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272-4555. The examiner can normally be reached on Tuesday through Thursday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG